

AMENDED IN ASSEMBLY JUNE 19, 2006

AMENDED IN SENATE MAY 26, 2006

AMENDED IN SENATE APRIL 17, 2006

AMENDED IN SENATE MARCH 27, 2006

SENATE BILL

No. 1369

Introduced by Senator Maldonado

February 21, 2006

An act to amend ~~Section~~ *Sections 655.6 and 1288* of the Business and Professions Code, relating to clinical laboratories.

LEGISLATIVE COUNSEL'S DIGEST

SB 1369, as amended, Maldonado. Clinical laboratories: anatomic pathology services.

Existing law provides that it is unlawful for certain health care professionals to charge, bill, or otherwise solicit payment from any patient, client, customer, or third-party payer for cytologic services relating to the examination of gynecologic slides if those services were not actually rendered by the person or under his or her direct supervision. Existing law also requires clinical laboratories performing cytologic examinations of gynecologic slides to directly bill either the patient or the responsible third-party payer for the cytology services rendered by the laboratory, except as specified. A violation of these provisions is a crime.

This bill would instead make it unlawful for those health care professionals to charge, bill, or otherwise solicit payment from any patient, client, customer, or third-party payer for *professional assessment and interpretation of* anatomic pathology services *on samples originating in California*, as defined, if those services were

not actually rendered by the person or under his or her direct supervision. The bill would also require clinical laboratories providing *professional assessment and interpretation of anatomic pathology services* to directly bill either the patient or, the responsible third-party payer, or the requesting hospital or clinic for those services, except as specified.

Existing law allows clinical laboratories to accept assignments to perform tests only from licensed health care providers.

This bill would require persons ordering tests to provide accurate billing information or the means to get that information if a third party is to be billed.

Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 655.6 of the Business and Professions
 2 Code is amended to read:
 3 655.6. (a) It is unlawful for any person licensed under this
 4 division or under any initiative act referred to in this division to
 5 charge, bill, or otherwise solicit payment from any patient, client,
 6 customer, or third-party payer for *professional assessment and*
 7 *interpretation of anatomic pathology services* if *that professional*
 8 *assessment and interpretation of those services*—were was not
 9 actually rendered by that person or under his or her direct
 10 supervision.
 11 (b) (1) Clinical laboratories providing *professional*
 12 *assessment and interpretation of anatomic pathology services*
 13 ~~shall directly bill either the patient or the responsible third-party~~
 14 ~~payer for the anatomic pathology services rendered by on~~
 15 *specimens originating in California shall directly bill (i) the*
 16 *patient, (ii) the insurer or third-party payer responsible for*

1 *payment of the services, or (iii) the hospital public health clinic,*
2 *or nonprofit health clinic that ordered the professional*
3 *assessment and interpretation of anatomic pathology services*
4 *rendered by those laboratories. Clinical laboratories shall not bill*
5 *the physician and surgeon who requests ~~the tests~~ professional*
6 *assessment and interpretation of anatomic pathology services,*
7 *but may bill the physician and surgeon who requests only*
8 *technical preparation of slides. A clinical laboratory shall first*
9 *bill the patient's health care service plan or insurer, when it*
10 *knows or should know that the patient is an enrollee of a health*
11 *care service plan or an insured under a health insurance policy,*
12 *for amounts in excess of any applicable copayments, deductibles,*
13 *or coinsurance. However, if the patient's health care service plan*
14 *or health insurer has denied payment of all or part of the claim or*
15 *failed to pay the claim, the clinical lab may bill the patient or a*
16 *responsible third-party payer.*

17 (2) Notwithstanding subdivision (a), it is not unlawful for a
18 clinical laboratory to bill for anatomic pathology services that
19 were performed by an affiliated clinical laboratory. An "affiliated
20 clinical laboratory" means a clinical laboratory that is wholly
21 owned by, is the parent company of, or is under common
22 ownership with, the clinical laboratory billing for the anatomic
23 pathology services. For these purposes, "wholly owned" means
24 100 percent ownership directly or through one or more
25 subsidiaries, and "common ownership" means 100 percent
26 ownership by a common parent company.

27 (c) For the purposes of this section, any person or entity who
28 is responsible to pay for anatomic pathology services provided to
29 that patient shall be considered a responsible third-party payer.

30 (d) This section shall not apply to any of the following:

31 (1) Any person who, or clinical laboratory that, contracts
32 directly with a health care service plan licensed pursuant to
33 Section 1349 of the Health and Safety Code, if services are to be
34 provided to members of the plan on a prepaid basis.

35 (2) Any person who, or clinic that, provides anatomic
36 pathology services without charge to the patient, or on a sliding
37 scale payment basis if the patient's charge for services is
38 determined by the patient's ability to pay.

39 (3) Health care programs operated by public entities,
40 including, but not limited to, colleges and universities.

1 (4) Health care programs operated by private educational
2 institutions to serve the health care needs of their students.

3 (5) Any person who, or clinic that, contracts with an employer
4 to provide medical services to employees of the employer if the
5 anatomic pathology services are provided under the contract.

6 (e) For purposes of this section, the term “anatomic pathology
7 services” means any of the following:

8 (1) Histopathology or surgical pathology, meaning the gross
9 and microscopic examination of organ tissue performed by a
10 physician and surgeon or under the supervision of a physician
11 and surgeon.

12 (2) Cytopathology, meaning the examination of cells, from
13 fluids, aspirates, washings, brushings, or smears, including the
14 Pap test examination performed by a physician and surgeon or
15 under the supervision of a physician and surgeon.

16 (3) Hematology, meaning the microscopic evaluation of bone
17 marrow aspirates and biopsies performed by a physician and
18 surgeon, or under the supervision of a physician and surgeon, and
19 peripheral blood smears when the attending or treating physician
20 and surgeon or technologist requests that a blood smear be
21 reviewed by a pathologist.

22 (4) Subcellular pathology and molecular pathology.

23 *SEC. 2. Section 1288 of the Business and Professions Code is*
24 *amended to read:*

25 1288. (a) Any person conducting or operating a clinical
26 laboratory may accept assignments for tests only from and make
27 reports only to persons licensed under the provisions of law
28 relating to the healing arts or their representatives. This section
29 does not prohibit the acceptance of evaluation specimens for
30 proficiency testing or referral of specimens or such assignment
31 from one clinical laboratory to another clinical laboratory, either
32 licensed or exempt under this chapter, providing the report
33 indicates clearly the laboratory performing the test. A report of
34 results issuing from a clinical laboratory shall show clearly the
35 name and address of the laboratory and the name of the director.

36 (b) *The licensed persons ordering tests from clinical*
37 *laboratories pursuant to this section shall include complete and*
38 *accurate billing information with the test assignments or requests*
39 *to enable the laboratories to bill the patients or responsible*
40 *third-party payers whenever any provisions of this chapter or of*

1 *this code require the performing clinical laboratories to bill the*
2 *patients or third-party payers directly for any services rendered*
3 *by those laboratories.*

4 ~~SEC. 2.~~

5 SEC. 3. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the
10 penalty for a crime or infraction, within the meaning of Section
11 17556 of the Government Code, or changes the definition of a
12 crime within the meaning of Section 6 of Article XIII B of the
13 California Constitution.

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